

JOSIE DELVIN
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2019 MAR 13 PM 1:05

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

BLAIR and RAQUEL SAMPSON, husband and
wife;

Plaintiffs,

vs.

BRENT AND HOLLY MARTELL, individually
and as a marital community, PREMIER
LANDSCAPING & DESIGN, INC., a
Washington State Corporation; AMERICAN
CONTRACTORS INDEM. CO. BOND NO
100258533; jointly and severally

Defendants.

NO. 18-2-03015-03

ANSWER AND AFFIRMATIVE
DEFENSES OF AMERICAN
CONTRACTORS INDEMNITY
COMPANY

COMES NOW, Third Party Defendant AMERICAN CONTRACTORS INDEMNITY
COMPANY, BOND NO. 100258533, (hereinafter referred to as "Defendant Surety"), and for
Answer to Plaintiffs' First Amended Complaint, admits, denies and alleges as follows:

1. Defendant Surety has insufficient knowledge as to the truth or falsity of the
allegations contained in Paragraphs 1.1, 1.2, 3.1, 3.2, 3.3, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12,

ANSWER AND AFFIRMATIVE DEFENSES OF
DEFENDANT AMERICAN CONTRACTORS

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1 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 3.25, 3.26, 3.27, 3.28, 3.29,
2 3.30, 3.31, 3.32, 3.33, 3.34, 3.35, 3.36, 3.37, 3.38, 3.39, 3.40, 3.41, 3.42, 3.43, 3.44, 3.45, 3.46,
3 3.47, 3.48, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 5.2, 5.3, 5.4, 5.5,
4 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 7.2,
5 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, and 7.9, of Plaintiffs' First Amended Complaint, and therefore denies
6 same in their entirety.

7 2. As to Paragraph 1.4, Defendant Surety admits that it is a surety and pursuant to
8 RCW 18.27 has issued surety bond no. 100258533 with an effective date of September 22,
9 2014. As to each and every other and further allegation in paragraph 1.4, Defendant Surety has
10 insufficient knowledge as to the truth or falsity thereof and for that reason denies same.

11 3. In answer to paragraphs 1.3, 2.1, 3.4, 3.5, Defendant Surety admits same.

12 4. In answer to paragraphs 4.1, 5.1, 6.1, 7.1, Defendant Surety repeats and realleges
13 the responses set forth above for each of the respective paragraphs.
14

15 5. In answer to paragraph 8.1, Defendant Surety admits it is a bonding company
16 for Premier Landscaping. As to each and every other and further allegation in paragraph 8.1,
17 Defendant Surety has insufficient knowledge as to the truth or falsity thereof and for that reason
18 denies same.

19 6. In answer to paragraph 8.2, Defendant Surety has insufficient knowledge as to
20 the truth or falsity thereof and for that reason denies same.

21 AFFIRMATIVE DEFENSES

22 1. Defendant Surety has no liability for any claims other than claims arising during
23 the effective dates of its Bond No.100258533.
24
25

1 2. Defendant Surety has no liability for any claims that are time-barred by the
2 applicable claim limitation provision of RCW 18.27.040 (3).

3 3. Defendant Surety has no liability for any claims for items not specifically
4 enumerated in RCW 18.27.040.

5 4. In the event that any other valid claims are properly filed against the subject
6 bond of the Defendant Surety prior to a final judgment being entered against said Defendant
7 Surety herein or tender of Defendant Surety's bond proceeds, the proceeds of said bond will
8 be distributed in accordance with the priorities set forth in RCW 18.27 and in accordance with
9 existing case law. In no event will the Defendant Surety be liable for any amount in excess of
10 the maximum penal sum of its bond.

11 5. Defendant Surety has no liability for any claim enumerated in RCW 18.27.040
12 and set forth in Plaintiffs' Complaint if said complaint was not served and filed as required by
13 RCW 27.040.

14 6. Defendant Surety cannot be held liable unless the principal is, and therefore,
15 takes any and all defenses available to the principal as allowed by law as if they were asserted
16 by the Defendant Surety.

17 7. Plaintiffs' claim is barred by the Statue of Frauds.

18 8. Plaintiffs claim for damages to person or property as against the Defendant
19 Surety is barred under provision of RCW 19.72.107.
20

21 WHEREFORE, Defendant Surety prays for Judgment as follows:

- 22 1) for Dismissal of Plaintiffs' claims against Defendant Surety with prejudice;
23 2) for reasonable attorney's fees as authorized by Ch 4.84 RCW and RCW
24 18.27.030; and
25

1 3) for such other and further relief as the Court may deem just and equitable.
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4 DATED this 13th day of March 2019
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6 PILLAR LAW PLLC
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10 Kerry C. Lawrence, of counsel, WSBA #8479
11 Attorneys for Defendants
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